

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 2001-077

October 4, 2001

MAINE PUBLIC SERVICE COMPANY  
Request for Approval of a Special Rate  
Contract (Power Purchase Agreement)  
with J. P. Levesque and Sons, Inc.

ORDER DISMISSING  
CONTRACT  
REQUEST

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

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### **SUMMARY OF DECISION**

By this Order, we dismiss Maine Public Service Company's (MPS's or the Company's) request for approval of a proposed Customer Service Agreement (CSA) with J. P. Levesque and Sons, Inc. (Levesque).

### **DISCUSSION AND DECISION**

On January 29, 2001, MPS filed with this Commission a proposed CSA with Levesque. This agreement was for service to Levesque's Ashland and Masardis lumber mills. Levesque is owned by Frasier Paper Company, LTD (Frasier) which, in addition to the Levesque mills, operates several plants in New Brunswick.

In its filing, MPS stated that it had recently been informed by Levesque that the Levesque facilities had become only marginally profitable when compared with Frasier's Canadian plants and that Frasier was seriously considering closing the Levesque facilities. According to MPS, Levesque had undertaken a radical cost reduction program, including reducing labor and transportation costs as well as securing price reductions from major suppliers in order to improve the profitability of the Maine facilities. MPS indicated that Levesque had asked it to make similar contributions to the cost cutting effort and that it had agreed in order to keep the two facilities open.

On February 6, 2001, the Hearing Examiner issued a Notice of Proceeding and invited interested persons to file petitions to intervene. No such petitions were received. On February 28, 2001, a Case Conference and Technical Conference was held in this proceeding. During that Conference, the Commission Staff requested that additional information be provided in support of the discount. In particular, the Staff requested analyses that demonstrate the discount to Levesque was reasonable. MPS indicated at the Conference that it did not have in its possession the underlying information to support such analyses and that it would need to obtain it from Frasier.

On March 27, 2001, MPS filed responses to certain questions posed by Staff but indicated that they were still working with Frasier to obtain the information necessary to support the reasonableness of the discount. MPS noted that it would forward the information to the Commission as soon as MPS received it. To date, no such information has been provided to the Commission. In recent telephone conversations, MPS indicated to Staff that it had been unable to obtain the information from Frasier, despite repeated attempts.

Levesque lumber is a significant customer of MPS<sup>1</sup> and a major employer in the area. Therefore, we are reluctant to do anything that might cause Frasier to close the Levesque plants. However, by its terms, the contract requires the Commission to find that other ratepayers would be responsible for the revenue loss. Without the underlying information from Frasier to support the reasonableness of the discount, we cannot make such a finding. Moreover, the contract requires that such Commission approval be obtained by June 1, 2001. This did not happen.

Under the terms of the contract, if the Commission's approval was not obtained by June 1, 2001, "this Agreement shall be null and void and any request to the MPUC for its approval shall be deemed withdrawn and terminated." Therefore, by way of this Order, we formally recognize that condition and dismiss this contract request. However, if in the future Frasier provides the information necessary to support a discount to the Levesque facilities, we invite the parties to resubmit their request.

Accordingly, we

### **O R D E R**

That the Request for Approval of a Special Rate Contract with J. P. Levesque and Sons, Inc. filed by MPS on January 29, 2001 is hereby dismissed.

Dated at Augusta, Maine, this 4th day of October, 2001.

**BY ORDER OF THE COMMISSION**

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Dennis L. Keschl  
Administrative Director

**COMMISSIONERS VOTING FOR: Welch**

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<sup>1</sup> According to MPS, Levesque Lumber accounts for 4% of MPS's sales.

Nugent  
Diamond

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.